

REMARKS

1. Pursuant to the above noted office action, Claims 11, 28, and 32 were objected to as containing informalities. Claims 1-22 and 25-42 were rejected under 35 U.S.C. 103(a) given Miura (U.S. Patent No. 5,994,858) ("Miura") in view of Fitzgibbon et al. (U.S. Patent No. 6,172,475) ("Fitzgibbon"). Claims 23 and 24 were objected to as depending upon a rejected base claim. The Applicant hereby respectfully traverses these rejections and requests reconsideration.

2. Claims 11, 28, and 32 were objected to as including informalities. In Claim 11, the Examiner objects to the expression "substantially." The Applicant disagrees with the Examiner's contention and believes that the word "substantially" is not so vague as to render the claim non-compliant with the statutory requirements. Nevertheless, in the interests of expedited prosecution, the Applicant has revised Claim 11. In particular, instead of referring to a "substantially unloaded" operating state the claim now refers to a "less than fully loaded" operating state. Although admittedly broader, the Applicant respectfully submits that the Examiner's concerns regarding any potential uncertainty with respect to the word "substantially" has been traversed. In Claim 28, the Examiner objects to the word "substantially." Again, the Applicant disagrees with the Examiner's contention but has made a change in order to hopefully expedite review of this matter. In particular, Claim 28 has been amended to remove the word "substantially" and to insert the word "about" such that the latter alteration more clearly modifies the concept of "10%" rather than the concept of "equal." The Applicant respectfully submits that Claim 28 is now in suitable condition to support allowance. Claim 32 has been objected to both for the use of the word "substantially" and for the use of the word "ordinarily." Again, the Applicant respectfully disagrees with the Examiner's contention but has made changes in the interests of expedited prosecution. In particular, rather than referring to a "substantially unloaded operating condition," Claim 32 now refers to a "less than fully loaded operating condition." Similarly, rather than referring to an "ordinarily loaded" operating condition, Claim 32 now refers to a "more than fully unloaded" operating condition. Again, although admittedly broader following amendment, the Applicant respectfully submits that these claims are now more

than fully compliant with the statutory requirements regarding lack of vagueness and are in suitable condition to support allowance.

3. All of the claims, with the exception of Claims 23 and 24, were rejected under 35 U.S.C. 103(a) given Miura in view of Fitzgibbon. The Examiner cites Miura for disclosing an obstacle detection mechanism for use with a powered window wherein at least one parameter that corresponds to operation of the motor can be measured and utilized to establish a force control value for use during obstacle detection. Fitzgibbon is cited for its teachings regarding a moveable barrier operator having user manipulable up and down force-setting potentiometers. Examiner contends that an obvious combination of these two references yields the subject matter of the claims. The Applicant vigorously disputes this conclusion.

In particular, a combination of Miura with Fitzgibbon will result instead in an obstacle detection system that, during a learning mode, can automatically establish a force control value to be utilized during subsequent operation. In addition, that resultant structure will have one or more user manipulable potentiometers that permit a user to modify those automatically calculated force values. This, however, constitutes nothing more than the state of the prior art as is already acknowledged in the Applicant's Background section. More specifically, neither Miura or Fitzgibbon specifically disclose or even suggest the desirability of not only automatically determining or otherwise providing a force control value to use during subsequent operations but to also modify in any way the available user manipulable settings. It is only the Applicant's own teachings as set forth in the present application that make reference to any such approach, and those teachings cannot be properly applied in hindsight to purportedly render those same teachings as being obvious.

The above difference, so plainly lacking in either of the prior art references, either alone or in combination, is present throughout the various claims. For example, in Claim 1, the method provides for "measuring at least one parameter that corresponds to operation of the motor to provide a parameter value, using the parameter value to establish a specific force control value, [and] *assigning the specific force control value to a specific location of the user manipulable setting range for the force control*" [emphasis supplied]. Instead, the prior art provides only for automatically or otherwise establishing some force control values and


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then providing a user manipulable mechanism for altering that automatically determined value as desired. This same pertinent distinction appears throughout the claims and serves to distinguish all of the claims from these two prior art references.

The Applicant therefore respectfully submits that Claims 1-42 are patentably distinguishable from the references of record and may be passed to allowance.

4. There being no other objections to or rejections of the claims, the Applicant respectfully submits that Claims 1-42 may be passed to allowance.

Respectfully submitted,

  
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